

Appl. No. 10/618,308
Amdt. dated 2 October 2004
Reply to Office Action of 07 June 2004

REMARKS/ARGUMENTS

Rejection of claims 1-13 under 35 U.S.C 102(b)

The Examiner has rejected claims 1, 4-9 and 14-20 under 35 U.S.C. 102(b) as being anticipated by Morlok (US 6,056,002). In such rejection the Examiner has noted disclosures of Morlok alleged to disclose applicant's claimed invention. Such rejection is respectfully traversed on the grounds that there is no teaching or suggestion in Morlok of the structure or function of applicant's invention as recited in the herein amended claims.

The invention of Morlock discloses an enclosure for sanitary plumbing wherein the disclosure relates almost entirely to the structure of the foam encapsulated module 10. As to pertinent structure of the plumbing arrangement of Morlock, his disclosure only discloses first and second parallel water conduit portions, one hot and one cold, each having a meter and shut-off valve arranged in the same plane and at the same height. This arrangement is for the purpose of facilitating the convenient encapsulation of the conduit portions with no other advantage or reason therefore disclosed. In fact, the claims only recite "wherein one shut-off device (18) and one meter base (20) is provided at mutually corresponding positions in each conduit portion (14)". The remainder of claim recitations relate only to the manufacture and attachment of the module 10. It is thus clear that the teachings of Morlock are pertinent only as to the structure of the module 10 with no teaching relating to applicant's invention other than the unitary encapsulation within the module 10. There is no teaching or suggestion of the meter electronic readouts and computer processing of data as disclosed and variously claimed, directly or indirectly, in applicant's invention.

Claims 1, 4-9 and 14-20 remain in the application, all of which except for claim 19 being amended herein and submitted as reciting structure and function not taught or suggested in the disclosure of Morlok. Claims 2, 3 and 10-13 have been canceled. The courts have held under 35 U.S.C. 102(b) that "Anticipation requires the presence in a single prior art disclosure of all of a

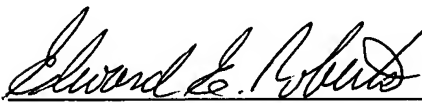
claimed invention arranged as in the claim.” See Structural Rubber Products Co. v. Park Rubber Co. (Fed Cir 1984) 223 USPQ 124, and Radio Steel & Mfg. Co. v. MTD Products Inc. (Fed Cir 1984) 221 USPQ 757. Thus, it is respectfully requested that the Examiner reconsider rejection of applicant’s claims under 35 U.S.C. 102(b) as being anticipated by Morlok.

Also, it is submitted that the claims now in the case are free of rejection under 35 U.S.C. 103 inasmuch as there is no teaching or suggestion in Morlok of applicant’s claimed invention, thus “One skilled in the art, with the prior art before him, but in the absence of applicant’s disclosure, would not be capable of constructing applicant’s claimed structure without displaying creative genius.” (Ex parte Warhol, 94 USPQ 193, In re Irmischer, 120 USPQ 196).

In view of the above, it is respectfully requested that the Examiner reconsider rejection of applicant’s claims under 35 U.S.C. 102(b) as being anticipated by Morlok or under 35 U.S.C. 103 in view of Morlock and find applicant’s amended claims free of such rejection.


A petition for a one month extension of time (small entity \$55.00) to respond to the outstanding Office Action and a Request for Continued Examination (\$395.00), along with a PTO 2038 form for each fee is enclosed.

Respectively submitted,

 10/02/2004
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I hereby certify that this correspondence is being deposited with the United States Postal Service, postage prepaid, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on 2 October 2004.


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